

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

JOHN C. DUVALL,	)	
	)	
Petitioner,	)	
	)	
vs.	)	NO. CIV-05-1413-HE
	)	
ERIC FRANKLIN, Warden,	)	
	)	
Respondent.	)	

**ORDER**


This case is before the Court on the Report and Recommendation of Magistrate Judge Gary M. Purcell. [Doc. #10]. Petitioner, a state prisoner appearing pro se, brings this action pursuant to 28 U.S.C. § 2241. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to Judge Purcell for review. On January 3, 2006, Judge Purcell issued his Report and Recommendation, recommending that petitioner's notice of dismissal [Doc. #9], construed as a motion to dismiss under Fed. R. Civ. P. 41(a)(2), be granted.

No party has objected to the Report and Recommendation. Therefore, further review of the issues contained therein is waived. United States v. One Parcel of Real Prop., 73 F.3d 1057, 1059-60 (10th Cir. 1996). See 28 U.S.C. § 636(b)(1)(c); LCvR72.1(a). For this reason, and for the reasons contained in the Report and Recommendation, the court concludes petitioner's motion to dismiss should be granted.

Accordingly, the Report and Recommendation is **ADOPTED** in its entirety. Petitioner's motion to dismiss is **GRANTED** and this case is **DISMISSED** without prejudice.

**IT IS SO ORDERED.**

Dated this 27<sup>th</sup> day of January, 2006.



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JOE HEATON  
UNITED STATES DISTRICT JUDGE